

Application No.: 10/698,157
Reply to Office Action mailed on June 18, 2007
Reply Dated: September 18, 2007

REMARKS

In response to the above-identified Office Action, Applicant amends the Application and seeks reconsideration in view of the following remarks. In this Response, Applicant amends claims 1, 6, and 11-18. Applicant does not cancel or add any new claims. Accordingly, claims 1-23 remain pending in the Application.

I. Claims Rejected Under 35 U.S.C. § 101

Claims 6-17 stand rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Applicant traverses the rejection, at least in view of the amendments to claims 6 and 11-17.

Applicant has amended the preamble of claim 6 to recite, “a data-empowered test program architecture stored on a computer readable storage medium, comprising...” (emphasis added). Applicant submits that claim 6 (and dependent claims 7-10) is directed to statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicant respectfully request withdrawal of the rejection of independent claim 6 and its associated dependent claims (i.e., claims 7-10).

With reference to independent claim 11, Applicant has amended the preamble of claim 11 to recite “a computing device, comprising:.” Therefore, Applicant submits that claim 11 (and dependent claims 12-17) is directed to statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicant respectfully request withdrawal of the rejection of independent claim 11 and its associated dependent claims (i.e., claims 12-17).

II. Claims Rejected Under 35 U.S.C. § 102

Claims 1-23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,146,572 B2 issued to Richardson (“Richardson”). Applicants respectfully traverse the rejection, at least in view of the amendments to independent claims 1, 6, 11, and 18.

To anticipate a claim, the cited reference must disclose each and every element of the rejected claim (*see MPEP § 2131*). Among other elements, claim 1 defines a data-empowered test program architecture stored on a computer readable storage medium, comprising:

Application No.: 10/698,157
Reply to Office Action mailed on June 18, 2007
Reply Dated: September 18, 2007

a plurality of control files, each control file defining a test sequence for one of a plurality of units-under-test and instructions for executing the test sequence;

a test executive software module configured to select a test sequence to use based on a unit-under-test;

a test framework software module configured to receive a selected test sequence from the test executive software module, determine how to perform the selected test sequence, and perform the selected test sequence; and

a plurality of software components in a software components module coupled for interaction with the test framework software module and structured for outputting at least one test report. (Emphasis added).

Applicant submits that *Richardson* fails to disclose at least these elements of claim 1.

Richardson discloses “a system and method for configuring database result logging for a test executive sequence using a graphical user interface (GUI)” (Col. 1, lines 10-12, emphasis added, parenthetical in original). Specifically, *Richardson* provides a computer system that executes:

a test executive sequence under control of test executive software, wherein the test executive sequence is operable to test a unit under test (UUT).... In testing the UUT, various results of the execution of the test executive sequence may be collected by the test executive software....The test executive software may be operable to receive user input to a graphical user interface (GUI) to specify desired database result logging criteria. The test executive software may then log at least a portion of the execution results for the test executive sequence to a database, according to the specified result logging criteria. (*Richardson*, Col. 2, lines 41-65, emphasis added).

Therefore, Applicant submits that *Richardson* discloses a system and method for taking results generated from running a test sequence and storing the results in a database.

By contrast, claim 1 defines a data-empowered test program architecture that:

Application No.: 10/698,157
Reply to Office Action mailed on June 18, 2007
Reply Dated: September 18, 2007

- a) selects a test sequence from one of a plurality of control files (via a test executive software module) based on the unit-under-test;
- b) determines how to perform the test sequence (via a test framework software module); and
- c) performs the test sequence (via a test framework software module).

That is, Applicant's architecture selects an appropriate test sequence from one of a plurality of control files based on the unit-under-test, determines how to perform the test sequence, and performs the test sequence, whereas *Richardson* performs a single test sequence and then stores the results in a database. Specifically, *Richardson* fails to disclose at least a plurality of control files defining a plurality of test sequences and a test executive configured to select a test sequence from one of the control files. Therefore, *Richardson* fails to disclose each and every element of claim 1. Accordingly, Applicant respectfully request withdrawal of the rejection of claim 1.

Claims 2-5 depend from claim 1 and include all of the elements thereof. Therefore, Applicant submits that claims 2-5 are not anticipated by *Richardson* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicant respectfully request withdrawal of the rejection of claims 2-5.

Applicant submits that independent claims 6, 11, and 18 each recite elements similar to claim 1 discussed above. Therefore, Applicant submits that claims 6, 11, and 18 are not anticipated by *Richardson* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicant respectfully request withdrawal of the rejection of independent claims 6,11, and 18.

Claims 7-10, 12-17, and 19-23 depend from claims 6, 11, and 18, respectively, and include all of the elements thereof. Therefore, Applicant submits that claims 7-10, 12-17, and 19-23 are not anticipated by *Richardson* at least for the same reasons as their respective independent claims, in addition to their own respective features. Accordingly, Applicant respectfully request withdrawal of the rejection of claims 7-10, 12-17, and 19-23.

Application No.: 10/698,157
Reply to Office Action mailed on June 18, 2007
Reply Dated: September 18, 2007

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (480) 385-5060 or jgraff@ifllaw.com.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

Date September 18, 2007

/JASON R. GRAFF, REG. NO. 54134/
Jason R. Graff

Ingrassia Fisher & Lorenz, PC
7150 East Camelback Road, Suite 325
Scottsdale, Arizona 85251